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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,638	02/05/2004	Shinji Fujikawa	S0530.0002	4113

32172 7590 01/16/2007

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NEW YORK, NY 10036-2714

EXAMINER
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KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/771,638

Applicant(s)

FUJIKAWA ET AL.

Examiner

Matthew J. Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7, 9-11, 13, 17, 19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 9-11, 13, 17, 19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Notice of Amendment***

In response to the amendment filed on October 19, 2006, amended claims 1-2; canceled claims 4, 6, 8, 12, 14-16, 18 and 20; and new claim 22 are acknowledged.

The current rejections of the claims *stand*. The following new and reiterated grounds of rejection are set forth:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, 9-11, 13, 17, 19 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,066,089 to Costello et al.

**In regards to claim 1**, Costello et al. disclose an endoscope apparatus comprising: an endoscope including an elongated flexible tube 1004 having flexibility such that a part of the flexible tube is inserted in at least an inspection object space (see Figs. 10a-b and 11a-b); an endoscope apparatus main body 106 connected to the endoscope for use; and a flexible tube holding member 180 including a tip fixing portion 182 to fix a tip of the flexible tube thereto, which is detachably attached to the endoscope apparatus main body and around which the flexible tube is wound to hold the flexible tube of which the tip is inserted in the tip fixing portion (see Fig. 1 and Col. 5, Lines 16-24 and Col. 9, Lines 10-22).

**In regards to claim 2,** Costello et al. disclose endoscope apparatus further comprising: a storage section 108 which stores the flexible tube holding member and which is detachably attached to the endoscope apparatus main body (see Fig. 1).

**In regards to claim 3,** Costello et al. disclose endoscope apparatus, wherein the flexible tube comprises a head portion in which an optical system in an endmost position is incorporated, a curved portion capable of being bent/operated in a remote manner, and an elongated flexible tube portion (see Col. 1, Lines 39-64).

**In regards to claim 5,** Costello et al. disclose endoscope apparatus, wherein the flexible tube comprises the insertion portion, further a universal cable which has flexibility and which transmits an illuminating light and an electric signal, and an intermediate connecting portion which connects the insertion portion to the universal cable (see Figs. 11a-b).

**In regards to claim 7,** Costello et al. disclose endoscope apparatus, wherein the flexible tube comprises the insertion portion, further a universal cable which has flexibility and which transmits an illuminating light and an electric signal, an operation portion which connects the insertion portion to the universal cable and which controls an operation of the insertion portion, and a monitor portion which displays an image photographed by the head portion by operation of the operation portion and image information (see Figs. 1, 11a-b and Col. 4, Lines 1-27).

**In regards to claims 9-10,** Costello et al. disclose endoscope apparatus, wherein the storage section is a container 108 which contains the flexible tube holding member (see Fig. 1).

**In regards to claim 11**, Costello et al. disclose endoscope apparatus, wherein the flexible tube holding member has a rotatable drum 180 or bobbin shape which rotates the flexible tube with a defined diameter (see Figs. 1, 7 and 9).

**In regards to claim 13**, Costello et al. disclose endoscope apparatus, wherein the flexible tube holding member comprises a rotary member around which the flexible tube is wound from a tip side (see Figs. 12a-b).

**In regards to claims 17 and 19**, Costello et al. disclose endoscope apparatus, wherein the flexible tube holding member comprises a first fitting portion which is capable of engaging with and storing the intermediate connecting portion connecting the insertion portion to the universal cable and which has a concave shape (See Fig. 9).

**In regards to claim 21**, Costello et al. disclose endoscope apparatus, wherein the storage section 108 comprises an engagement portion 180 which engages with the flexible tube and engages with the endoscope apparatus main body 106 and is integrally movable (see Fig. 1).

**In regards to claim 22**, Costello et al. disclose endoscope apparatus, wherein the tip fixing portion 182 is provided on the outer peripheral surface of a cylindrical portion (see Fig. 1 and Col. 9, Lines 15-20).

### ***Response to Arguments***

Applicant's arguments filed October 19, 2006 have been fully considered but they are not persuasive.

Applicant states that Costello does not disclose a tip fixing portion in which the tip portion of the flexible tube is fixed to the tip fixing portion and wound around the flexible

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tube holding member. However, Costello clearly discloses a flexible tube holding member 180 including a tip fixing portion 182 to fix a tip of the flexible tube thereto, which is detachably attached to the endoscope apparatus main body and around which the flexible tube is wound to hold the flexible tube of which the tip is inserted in the tip fixing portion (see Fig. 1 and Col. 9, Lines 10-22). Thus, as broadly as claimed, Costello meets the limitations of the recited claims and the rejections stand.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK



12/29/06



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